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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,148	08/27/2001	Thomas Huber	577172000400	4598
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OPTV/MOFO C/O MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD, SUITE 300 MCLEAN, VA 22102			EXAMINER SALCE, JASON P	
			ART UNIT	PAPER NUMBER
			2611	17

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/941,148

Applicant(s)

HUBER ET AL.

Examiner

Jason P Salce

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-15, 27-34, 44-49, 62 and 64-90 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-15, 27-34, 44-49, 62 and 64-90 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/1/04 has been entered.

***Response to Arguments***

2. Applicant's arguments with respect to claims 10-15, 27-34, 44-49, 62 and 64-90 have been considered but are moot in view of the new ground(s) of rejection.

The examiner notes that the only limitations added to the claims (besides the newly added claims) are the limitations in regards to biometric identification of a user of a remote control, controlling the display of a video segment according to the preference and profile data and the tags being descriptive of the video segment. The examiner notes that Nickum and Perlman disclose controlling the display of video content according to preference and profile data (see the rejection of claim 1), and Perlman further teaches that the video is a video segment (see Column 2, Lines 46-50). Perlman also discloses that the tags are descriptive of the video segment (see Column 2, Lines 51-53).

In regards to the teaching of using biometric identification of a remote control user, the examiner introduces the Rosser reference (U.S. Patent No. 6,446,621) for such a teaching.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 10-15, 27-31, 44-49, 62, 64-67, 71-75, 79-84 and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nickum in view of Perlman (U.S. Patent No. 6,125,259) in further view of Rosser (U.S. Patent No. 6,446,261).

Referring to claim 10, Nickum discloses a method of controlling displayed video and data content utilizing a remote control device (Column 1, Lines 55-56) that interacts with a set-top box (Column 5, Lines 29-33).

Nickum also discloses recognizing a current user with an interface in said personal remote control unit (Column 5, Lines 16-21).

Nickum also discloses establishing an identification of a current user based upon the recognition of data supplied to the remote (Column 5, Lines 16-21).

Nickum also discloses communicating the identification of the current user to the set-top box (Column 5, Lines 11-13), and note that the disclosure of Nickum states, "the process represented by FIG. 4 can be executed by circuitry incorporated in the remote control devices, the television receiver, or an attached device such as a cable control

box" (Column 5, Lines 28-33).

Nickum also discloses assigning preference and profile data (program control data and profile data) corresponding to the current user to a current user database (EEPROM) within the set-top box (see explanation above regarding the set-top box and Column 5, Lines 46-49).

Nickum also discloses controlling output of the set-top box by controlling video content based on the preference and profile data within said current user database (see explanation above regarding the set-top box and Column 6, Lines 9-19 and Lines 58-67).

Nickum provides interactive content (by a user changing a channel, this is interactive), but fails to teach providing "enhanced interactive content" to a user. Perlman discloses, "enhanced interactive content" by providing EPG data (tags) that include a ratings code in the video segment (see Column 2, Lines 46-50) that is transmitted to the user (see Column 5, Lines 3-8 and Lines 14-31). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the regular television broadcast, as taught by Nickum, using the enhanced EPG data (tags), as taught by Perlman, for the purpose of inhibit the display of channels broadcasting television programs which contain unacceptable material (see Column 3, Lines 60-63 of Perlman).

Nickum and Perlman both fail to disclose using biometric identification to identify the remote control user. Rosser discloses that a user's profile can be stored in a remote control (see Column 15, Lines 10-14) and that a user can be identified by

various biometric identification means (see Column 15, Lines 22-28). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the remote control device of Nickum and Perlman, to provide the ability to identify the user by biometric identification, for the purpose of alleviating the user from time-consuming key entry of identification data (such as, userid and password information) by using a system that provides faster access to his/her profile data.

Claim 11 corresponds to claim 10, where Nickum teaches all of the limitations in claim 10, but fails to teach comparing tags that are placed in the video stream that indicate content of the video stream to preference and profile data. Perlman teaches EPG data, which includes rating data (Column 5, Lines 14-27 and Table I), and that is transmitted from a headend to a receiver (Column 12, Lines 35-37) and this data is compared to preference and profile data (predefined ratings code in parental control unit at Column 7, Lines 63-67).

Referring to claim 90, Perlman discloses storing the results of the comparison of the one or more tags and the preference and profile data, wherein the display of the video segment is based on the results of the comparison (see Column 4, Lines 1-19). However, Nickum, Perlman and Rosser all fail to disclose storing the video segment (which would contain a FAT table that contains pointer to the locations of the stored video segments). The examiner takes Official Notice that it is well known in the art to store video segments on a storage device (with an accompanying video pointer table). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the video content viewing system, as taught by Nickum,

Perlman and Rosser, using the video segment storage device, for the purpose of storing preferred programming for future display at a time specified by the user.

Claims 12 and 13 correspond to claim 10, where Rosser discloses that the biometric identification is based on a physical or intellectual attribute (see Column 15, Lines 22-28).

Claim 14 corresponds to claim 10, where Perlman discloses that profile data can be derived from usage patterns of the remote control device (see Column 4, Lines 10-19).

Claim 15 corresponds to claim 10 and directly relates to claim 11, where Perlman notes that EPG data is sent from the headend, which is before receiving the data at the input of the set-top box, therefore the data is "pre-tagged" (see Column 5, Lines 8-10).

Referring to claim 27, see rejection of claims 10 and 11.

Referring to claims 28-31, see rejection of claims 12-15.

Claim 44 directly relates to claim 10, where Nickum discloses an ID input device within the remote to determine the identity of the current user (Column 5, Lines 42-44), and a communications link between the personalized remote control and the set-top box for transmission of the identification of the current user to the set-top box (Column 3, Lines 49-58 and Column 8, Lines 34-36).

Nickum also discloses that the set-top box assigns preference and profile data corresponding to the current user to a current user database within the set-top box (Column 5, Lines 46-49), and controls the interactive output by controlling the video content based on the preference and profile data within the current user database

(Column 5, Lines 49-59). Also see rejection of claim 10, for providing "enhanced video content" and biometric identification.

Referring to claim 45, see rejection of claim 11.

Referring to claims 46-48, see rejection of claims 12-14, respectively.

Referring to claim 49, see rejection of claim 15.

Referring to claim 62, see rejection of claims 44 and 45.

Referring to claims 64-67, see rejection of claims 46-49.

Referring to claim 71, see rejection of claim 62. Also note arguments in regards to a "segment" in the response to arguments section of this Office Action.

Referring to claims 72-75, see rejection of claims 12-15, respectively.

Referring to claim 79, see rejection of claim 71.

Referring to claims 80-84, see rejection of claims 11-15, respectively.

4. Claims 33-34, 69-70, 77-78 and 86-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nickum in view of Perlman in further view of Rosser in further view of Agraharam et al. (U.S. Patent No. 6,377,995).

Referring to claims 33-34, Nickum, Perlman and Rosser disclose all the limitations in claim 27, but fail to teach that the tags are created in real-time by video recognition techniques utilizing key images and sounds. Agraharam teaches indexing (tagging) a broadcast at a headend according to voice and image recognition (see Column 2, Lines 60-64 and Column 3, Lines 4-6). At the time the invention was made, it would have been obvious to modify the enhanced video content (with tags) distribution system, as taught by Nickum, Perlman and Rosser, using the voice and image



recognition system, as taught by Agraharam for the purpose of eliminating the use of an operator at a headend for manually tagging video content that is desired for viewing by a subscriber.

Referring to claims 69-70, 77-78 and 86-89, see rejection of claims 33-34.

5. Claims 32, 68, 76 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nickum in view of Perlman in further view of Rosser in further view of Sumita et al. (U.S. Patent No. 6,581,207).

Referring to claim 32, Nickum, Perlman and Rosser disclose all the limitations in claim 27, but fail to teach that the tags are created in real-time by video recognition techniques utilizing key images and sounds. Sumita discloses searching various programs and EPG data for keywords through various recognition techniques and transmitting the results to an end-user (see Column 4, Lines 39-50 and Column 5, Lines 31-49 and Figure 1). At the time the invention was made, it would have been obvious to modify the enhanced video content (with tags) distribution system, as taught by Nickum, Perlman and Rosser, using the filtering system, as taught by Sumita, for the purpose of eliminating the use of an operator at a headend for manually tagging video content that is desired for viewing by a subscriber.

Referring to claims 68, 76 and 85, see rejection of claim 32.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-

1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 29, 2004

  
CHRIS GRANT  
PRIMARY EXAMINER